



UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA, ) Case No.: 13CR2809-MMA  
)  
Plaintiff, ) FINDINGS AND RECOMMENDATION  
) OF THE MAGISTRATE JUDGE  
v. ) UPON A PLEA OF GUILTY  
)  
MARIA DEL REFUGIO TAPIA )  
)  
(1), )  
)  
Defendant.

Upon Defendant's request to enter a guilty plea to Count One of the Superseding Information pursuant to Rule 11 of the Federal Rules of Criminal Procedure, this matter was referred to the Magistrate Judge by the District Judge, with the written consents of the Defendant, counsel for the Defendant, and counsel for the United States.

Thereafter, the matter came on for a hearing on Defendant's guilty plea, in full compliance with Rule

1 11, Federal Rules of Criminal Procedure, before the  
2 Magistrate Judge, in open court and on the record.

3 In consideration of that hearing and the allocution  
4 made by the Defendant under oath on the record and in  
5 the presence of counsel, and the remarks of the  
6 Assistant United States Attorney,

7 **I make the following FINDINGS - that the Defendant**  
8 **understands:**

- 9 1. The government's right, in a prosecution for  
10 perjury or false statement, to use against the  
11 defendant any statement that the defendant  
12 gives under oath;
- 13 2. The right to persist in a plea of "not guilty";
- 14 3. The right to a speedy and public trial;
- 15 4. The right to trial by jury, or the ability to  
16 waive that right and have a judge try the case  
17 without a jury;
- 18 5. The right to be represented by counsel-and if  
19 necessary to have the court appoint counsel-at  
20 trial and at every other stage of the  
21 proceeding;
- 22 6. The right at trial to confront and cross-  
23 examine adverse witnesses, to be protected from  
24 compelled self-incrimination, to testify and  
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present evidence, and to compel the attendance of witnesses;

7. The defendant's waiver of these trial rights if the court accepts a guilty plea or nolo contendere;

8. The nature of each charge to which the defendant is pleading;

9. Any maximum possible penalty, including imprisonment, fine, and term of supervised release;

10. Any applicable mandatory minimum penalty;

11. Any applicable forfeiture;

12. The court's authority to order restitution;

13. The court's obligation to impose a special assessment;

14. In determining a sentence, the court's obligation to calculate the applicable sentencing guideline range and to consider that range, possible departures under the Sentencing Guidelines, and other sentencing factors under 18 U.S.C § 3553(a);

15. The term of any plea agreement and any provision in that agreement that waives the

1 right to appeal or to collaterally attack the  
2 conviction and sentence; and

3 16. That, if convicted, a defendant who is not a  
4 United States citizen may be removed from the  
5 United States, denied citizenship, and denied  
6 admission to the United States in the future.  
7

8 **I further find that:**

9 17. The defendant is competent to enter a plea;

10 18. The defendant's guilty plea is made knowingly  
11 and voluntarily, and did not result from force,  
12 threats or promises (other than those made in a  
13 plea agreement); and  
14

15 19. There is a factual basis for Defendant's plea.

16 **I therefore RECOMMEND that the District Judge**  
17 **accept the Defendant's guilty plea to Count One of the**  
18 **Superseding Information.**  
19

20 The sentencing hearing will be before United States  
21 **District Judge Michael M. Anello, on 4/13/2015 at 09:00**  
22 **AM.** The court excludes time from 1/22/2015 through  
23 4/13/2015 pursuant to 18 USC § 3161(h)(1)(G) on the  
24 ground that the District Judge will be considering the  
25 proposed plea agreement.  
26  
27  
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1       Objections to these Findings and Recommendations  
2 are waived by the parties if not made within 14 days of  
3 this order. If the parties waive the preparation of the  
4 Presentence Report, objections are due within three  
5 days of this order.  
6

7  
8 Dated: 1/22/2015  
9

  
10       Hon. Karen S. Crawford  
11       United States Magistrate Judge  
12

13 Copies to:  
14 Judge Michael M. Anello  
15 Assistant United States Attorney  
16 Counsel for Defendant  
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